

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

IN RE COMPACT DISC MINIMUM		
ADVERTISED PRICE ANTITRUST		MDL DOCKET No. 1361
LITIGATION		

ORDER ON DISCOVERY

I have reviewed all the written submissions filed before and after the latest conference of counsel. I have also talked today by telephone with Commissioner Bruce Mitchell in California. As a result, Judge Mitchell and I have agreed to the following:

1. We will issue a Joint Order so that there is no doubt of our respective authorities and jurisdictions to direct what we are directing. The Joint Order also will contemplate that other state jurisdictions can join it if they so choose, provided that liaison counsel is first appointed for the respective state proceedings, so that MDL liaison counsel will have one counsel to relate to for any given State.
2. We are aware of the plaintiffs' lawyers' concerns for cumbersomeness and will remain alert to those concerns, but have concluded that we will simply have to proceed one step at a time. If procedures prove too cumbersome, parties can seek appropriate relief.
3. We are content with the format initially devised in Commissioner Mitchell's court, that discovery disputes will come first to the federal forum. Only if

plaintiffs in the state lawsuit remain unhappy thereafter will they seek relief in the state forum.

4. The prior telephone conferencing requirement for depositions is eminently reasonable. Coordination of written discovery may create some added difficulty if it affects previously negotiated arrangements with retailers designed to reduce burdensomeness. Nonetheless, the advantages outweigh any difficulty. Insurmountable issues can come before the U.S. Magistrate Judge, this District Judge or, finally, the respective State Judge.
5. Distributors liaison counsel shall prepare an Order that reflects the foregoing and submit it on disk to both courts with fax notice to all other parties' liaison counsel. Within 2 business days thereafter, any remaining objections shall be filed. (It is not necessary to refile previously made objections, in order to preserve them.)

SO ORDERED.

DATED THIS 17TH DAY OF APRIL, 2001.

D. BROCK HORNBY
UNITED STATES CHIEF DISTRICT JUDGE